

**AMENDED COLORADO CONSOLIDATED EQUAL
EMPLOYMENT OPPORTUNITY**

and

EMPLOYEE DISPUTE RESOLUTION PLAN

of the

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

*Approved by the Court
April 22, 1998*

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NONDISCRIMINATION POLICY

The United States Courts for the Tenth Circuit are firmly committed to a policy that prohibits discrimination on the basis of race, sex (including sexual harassment), religion, national origin, disability, or age. This policy shall govern the conduct of all persons that are employed by the court as well as the conduct of others in their business affairs with the court. It is the intention of this policy to promote a professional atmosphere for court employees and for all those with whom the court interacts.

For purposes of this policy, discrimination is defined as treatment or consideration based on race, sex, religion, national origin, disability or age rather than individual merit. The term “sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Incidents of perceived violations of this nondiscrimination policy may be confidentially reported by court employees, applicants or by any member of the public to the EDR Coordinator or Alternate EDR Coordinator listed below. In addition, court employees and applicants for employment are specifically covered under the court’s written Equal Employment Opportunity/Employment Dispute Resolution Procedures. Copies of these procedures are available without charge from the Clerk of Court.

Honorable A. Bruce Campbell
EDR Coordinator
303.844.2294

Honorable Zita L. Weinshienk
Alternate EDR Coordinator
303.844.2784

Signed this 18th Day of August 2003 by:

Honorable Lewis T. Babcock, Chief District Judge
and
Honorable Deanell Reece Tacha
Chief Circuit Judge

§ I PREAMBLE

This Plan shall be known as the Consolidated Equal Employment Opportunity and Employee Dispute Resolution Plan of the United States Bankruptcy Court for the District of Colorado ("Consolidated Plan"). This Consolidated Plan was approved by the United States Bankruptcy Court for the District of Colorado to provide its employees the rights and protections of the Model Equal Employment Opportunity Plan ("Model EEO Plan") adopted by the Judicial Conference of the United States in March 1980 (and revised in September 1986) and the additional rights and procedures of the Model Employment Dispute Resolution Plan ("Model EDR Plan") adopted by the Judicial Conference of the United States in March 1997. The Consolidated Plan's protections and procedures are comparable to those provided to legislative branch employees under the Congressional Accountability Act of 1995. This Consolidated Plan addresses the following workplace and employment issues:

- Equal Employment Opportunity and Anti-Discrimination Rights
- Sexual Harassment
- Personnel Practices, Including Recruitment, Hiring
Promotion and Advancement
- Family and Medical Leave Rights
- Worker Adjustment and Retraining Notification Rights
- Employment and Reemployment Rights of Members of the Uniformed Services
- Occupational Safety and Health Protections
- Polygraph Tests
- Employee Dispute Resolution Procedures for Claims Of the Denial of The Rights
Afforded Under This Comprehensive Plan

Personnel of the United States Bankruptcy Court for the District of Colorado are afforded certain additional rights and protections regarding general grievance and adverse action procedures which are detailed in the Employee's Manual. General employment dispute procedures regarding adverse action and personnel grievances that do not invoke the protections of this Consolidated Plan are not modified and remain in effect as they are currently detailed in the Employee's Manual. The court may amend the Personnel Manual and the general grievance and adverse action procedures from time to time.

**THIS CONSOLIDATED PLAN SHALL NOT CONSTITUTE A CONTRACT OR
CREATE ANY LEGALLY ENFORCEABLE OBLIGATION BEYOND THAT
EXPRESSLY PROVIDED BY THE TERMS OF THE PLAN.**

CHAPTER I. PURPOSE AND SCOPE OF THE PLAN

§1 Scope of coverage

This Equal Employment Opportunity Program applies to chambers staff of bankruptcy judges and the unit executive and staff of the office of the Clerk of the United States Bankruptcy Court for the District of Colorado. Bankruptcy judges are included under the Consolidated Plan of the United States Court of Appeals for the Tenth Circuit.

The term “employee” includes all applicants for employment and former employees, except the following individuals are specifically excluded and are not covered under this Consolidated Plan:

- Externs;
- Private attorneys who apply to represent indigent defendants under the Criminal Justice Act;
- Volunteer counselors or mediators; or
- Other individuals who are not employees of an “employing office” as that term is defined in Chapter II, §2C below.

Individuals covered under the scope of this Consolidated Plan may seek timely redress of discrimination complaints through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees, nor are they intended to interfere in the administrative processes of the courts.

The Chief Judge, or a judicial officer appointed by the Chief Judge, shall be the designated judicial officer whose duties are described herein.

§2 Determination of the Proper Forum by the Reviewing Official

If an employee covered under the scope of this Consolidated Plan seeks redress of an employment dispute in the improper forum (either by bringing a general grievance or adverse action claim to the EDR Coordinator or Alternate EDR Coordinator or by bringing an EEO/EDR claim as a general grievance or adverse action claim), the designated judicial officer may elect to transfer the complaint to the proper forum for resolution at any time. In the event the designated judicial officer is disqualified under Chapter X § 4 of this Consolidated Plan, or is unavailable to serve, the Chief Bankruptcy Judge shall appoint another judge to serve in his or her place and stead. A complaint will be resolved in one forum only.

CHAPTER II. EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS

§1 General

Discrimination against employees based on race, color, religion, sex (including sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited.

§2 Definitions

For purposes of this Consolidated Plan--

A. The term “disability” means--

- (1) a physical or mental impairment that substantially limits one or more of the major life activities of an employee,
- (2) a record of such an impairment, or
- (3) being regarded as having such an impairment. *See 42 U.S.C. § 12102(2).*

B. The term “sexual harassment” means--

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment. *See 42 U.S.C. § 2000e et seq.*

C. The term “employing office” means--

For purposes of this Consolidated Plan, the United States Bankruptcy Court for the District of Colorado is deemed to be the “employing office” of the following:

- Chambers staff of bankruptcy judges
- The unit executive and staff of the office of the Clerk of the United States Bankruptcy Court for the District of Colorado

- D. The term “court” refers to the United States Bankruptcy Court for the District of Colorado.

CHAPTER III. ORGANIZATION

§1 Implementation

The court shall implement this Consolidated Equal Employment Opportunity and Employee Dispute Resolution Plan upon the approval of a majority vote of the active judges of the court.

§2 Judges, Court Managers, and Supervisors

Judges, court managers and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

CHAPTER IV. PERSONNEL PRACTICES

§1 Recruitment

Each court unit executive must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors.

§2 Hiring

Each court unit will make its hiring decisions strictly upon an evaluation of a person’s qualifications and ability to perform the duties of the position satisfactorily.

§3 Promotion

Each court unit will promote employees according to their experience, training, and demonstrated ability to perform duties of a higher level.

§4 Advancement

Each court unit will seek insofar as reasonably practicable to improve the skills

and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

CHAPTER V. FAMILY AND MEDICAL LEAVE RIGHTS

§1 General

Title II of the Family and Medical Leave Act of 1993, 29 U.S.C. §2611, applies to court employees in the manner prescribed in Volume I-C, Chapter X, Subchapter 1630.1, Section R, of the Guide to Judiciary Policies and Procedures.

CHAPTER VI. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS

§1 General

No “employing office closing” or “mass layoff” (as defined in Section 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff that results from the absence of appropriated funds.

§2 Definitions

- A. The term “employing office closing” means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.
- B. The term “mass layoff” means a reduction in force which—
 - 1. is not the result of an employing office closing; and
 - 2. results in an employment loss at a single site of employment during any 30-day period for
 - a. (1) at least 33 percent of the employees (excluding any part-time employees); and
 - (2) at least 50 employees (excluding any part-time employees); or
 - b. At least 500 employees (excluding any part-time employees). See 28 U.S.C. §2101.

CHAPTER VII. EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

§1 General

An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §4301 et seq.

CHAPTER VIII. OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS

§1 General

Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Complaints which seek a remedy that is exclusively within the jurisdiction of the General Services Administration ("GSA") or the United States Postal Service ("USPS") to provide are not cognizable under this Consolidated Plan, such requests should be filed directly with GSA or the USPS as appropriate.

- §2 Court program requirements** - The Court will implement a program to achieve the protections set forth in accordance with advice furnished by the Administrative Office of the United States Courts from time to time. The Clerk of Court is formally charged with the responsibility of implementing a safety program.

CHAPTER IX. POLYGRAPH TESTS

§1 General

No employee may be required to take a polygraph test.

CHAPTER X. DISPUTE RESOLUTION PROCEDURES

§1 General procedure for consideration of alleged violations

An individual covered under this Consolidated Plan who claims a denial of the rights granted hereunder shall seek resolution of such claims through the procedures of this Chapter. Generally, the procedural process consists of:

- A. counseling and mediation;
- B. hearing before the designated judicial officer of the United States District Court for the District of Colorado; and
- C. review of the hearing decision under procedures established by the judicial council of the circuit.

§2 Designation and Duties of the Employment Dispute Resolution Coordinator

The Chief Judge will designate an EDR Coordinator and an Alternate EDR Coordinator under this Consolidated Plan. The EDR Coordinator and the Alternate EDR Coordinator will be individuals of the opposite sex so that employees may be provided a comfortable forum for discussion of possibly sensitive issues during the initial counseling process. The EDR Coordinator and the Alternate EDR Coordinator will provide counseling to individuals in the initial stages of the complaint process, in accordance with Section 5 of this Chapter, including:

- Providing information to the court and employees regarding the rights and protections afforded under this Consolidated Plan;
- Coordinating the counseling of individuals in the initial stages of the complaint process, in accordance with Section 5 of this Chapter.

The Chiefs' Group (which consists of the U.S. District Court Clerk, U.S. Bankruptcy Court Clerk, and Chief U.S. Probation Officer) shall be the administrative managers of this Consolidated Plan and will be responsible for all reporting requested by the Administrative Office of the United States Courts, including but not limited to:

- Coordination and organization of the procedures and the establishment and maintenance of the official files of the court pertaining to complaints and other matters initiated and processed under the court's employment dispute resolution plan. These responsibilities include collecting, analyzing and consolidating statistical data and other information pertaining to the court's employment dispute resolution process.
- The Human Resources Division, with the approval of the Chiefs' Group, will prepare an annual report for the Chief Judge and the Administrative Office describing the court's achievements in providing equal employment opportunities, identifying those areas in which improvements are needed, and explaining those factors inhibiting achievement of equal employment opportunity objectives. Based upon this evaluation and report, the Chiefs' Group will recommend modifications in the Consolidated Plan to the court and will provide information regarding the Consolidated Plan to the public as directed by the court.

§3 General provisions and protections

- A. Prohibition against retaliation - Complaints under this Consolidated Plan have the right to be free from retaliation, coercion, or interference because of filing a complaint pursuant to this Plan. Likewise, any person who participates in the filing or processing of a complaint, such as an employment dispute resolution coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.
- B. Right to representation - All individuals involved in the dispute resolution procedures of this Consolidated Plan have the right to be represented by a person of their choice at their own expense if such person is available and consents to be a representative. A court employee may accept the responsibilities of representative if it will not unduly interfere with his or her court duties or constitute a conflict of interest, as determined by the court employee's appointing officer. If the appointing officer is involved in the dispute, then the determination shall be made by the designated judicial officer.
- C. Case preparation - To the extent feasible, every individual invoking the dispute resolution procedures of this Consolidated Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her court duties, as determined by the court employee's appointing officer. If the appointing officer is involved in the dispute, then the determination shall be made by the designated judicial officer.
- D. Notice - At the *initial counseling stage*, all communications shall be kept confidential unless the employee agrees in writing to waive confidentiality of the counseling process for the purpose of allowing the designated counselor to contact the designated judicial officer and/or to attempt a resolution of the disputed matter directly with the person who is the subject of the complaint. A written record of all such contacts must be kept by the counselor and made available for review by the complainant. *Beginning at the mediation stage and until final resolution of the complaint*, every individual alleged to be involved in a violation of the provisions of this Consolidated Plan has the right to have reasonable notice of the charges and an opportunity to respond to the allegations. *The EDR Coordinator or Alternate EDR Coordinator shall inform the complainant at the initial counseling stage how this notice provision may eventually affect the confidentiality of the complaint.*
- E. Extension of time - The designated judicial officer, may extend any of the deadlines set forth in this Consolidated Plan for good cause.

- F. Records - At the conclusion of formal and informal proceedings under this Consolidated Plan, all papers, files and reports (except those relating to mediation) will be filed with the Chiefs' Group. No papers, files or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

§4 General disqualification provision

A party may seek disqualification of a judicial officer, employee or other person involved in a dispute by written request to the designated judicial officer. Such written request shall contain facts regarding why the individual should be disqualified. If the designated judicial officer is named as being involved in a dispute, the chief judge will decide the disqualification request or appoint another judicial officer to decide the request.

§5 Counseling

- A. Initiating a proceeding; formal request for counseling - An employee who believes that his or her rights under this Consolidated Plan have been violated must first request counseling.
- B. Form and manner of requests - Requests for counseling:
 - 1. are to be submitted to the court's EDR Coordinator or Alternate EDR Coordinator;
 - 2. must be made in writing; and
 - 3. must be made within 30 days of the alleged violation or within 30 days of the time the employee becomes aware of the alleged violation.
- C. Procedures
 - 1. Who may serve as counselor - The counseling shall be conducted by the court's EDR Coordinator or Alternate EDR Coordinator, unless the EDR Coordinator or Alternate EDR Coordinator are disqualified from serving as counselor under Section 4 of this Chapter, or is otherwise unavailable. In such instances, the designated judicial officer shall designate another qualified individual to perform the counseling function.
 - 2. Purposes of counseling - The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to

advise the employee of his or her rights and responsibilities and the procedures of the court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

3. Confidentiality - All counseling shall be kept confidential unless the employee agrees in writing to waive confidentiality of the counseling process for the purpose of allowing the designated counselor to contact the employing office or to attempt a resolution of the disputed matter. A written record of all such contacts must be kept by the counselor and made available for review by the affected person(s). The EDR Coordinator and Alternate EDR Coordinator shall not discuss the request for counseling with each other unless the employee agrees in writing.
 4. Form of settlement - The EDR Coordinator or Alternate EDR Coordinator shall reduce to writing any settlement achieved during the counseling process. The written settlement should be signed by the employee, his or her representative, if any, and all other relevant individuals that, in the judgment of the designated judicial officer are necessary to implement the settlement.
- D. Duration of counseling period - The counseling period shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date the request for counseling is received by the EDR Coordinator or Alternate EDR Coordinator. The counseling period may be extended by the mutual agreement of the counselor and the employee for an additional 30 day period.
- E. Conclusion of the counseling period and notice - The EDR Coordinator or Alternate EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator or Alternate EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator or Alternate EDR Coordinator a request for mediation in accordance with Section 6 of this Chapter.

§6 Mediation

- A. Initiation - Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file a request for mediation with the EDR Coordinator or Alternate EDR Coordinator. The request must be made in writing and must state the claim(s) presented. Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.

B. Procedures -

1. Designation of mediator - As soon as possible after receiving the request for mediation, the EDR Coordinator or Alternate EDR Coordinator shall designate a mediator and provide written notice of such designation.
2. Who may serve as mediator - Any person with the skills to assist in resolving disputes, except the court's EDR Coordinator or Alternate EDR Coordinator, may serve as a mediator under this Plan.
3. Purpose of mediation - The mediator shall consult separately and/or jointly with the employee and his or her representative, if any, the person who is the subject of the complaint and any other necessary party to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.
4. Confidentiality - Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives.
5. Form of settlement - The mediator shall reduce to writing any settlement achieved during the mediation process. The written settlement should be signed by the employee, his or her representative, if any, and all other relevant individuals that, in the judgment of the designated judicial officer, are necessary to implement the settlement.

C. Duration of mediation period - The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a complaint. The mediation period may be extended by the mutual agreement of the mediator and the employee.

D. Conclusion of mediation period and notice - If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator or Alternate EDR Coordinator shall provide the employee, the employee's representative, if any, the individual who is subject of the complaint and the designated judicial officer with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a complaint

under Section 7 of this Chapter.

§7 Complaint, review and hearing

- A. Complaint - Not later than 15 days after receiving notice of the end of the mediation period, an employee may file a complaint with the EDR Coordinator, who will transmit the original to the designated judicial officer. The complaint shall be in writing, shall identify the complainant and all involved parties and individuals, and shall set forth a short and plain statement of the complainant's claim and the relief or remedy being sought. The respondent shall be the United States District Court for the District of Colorado as employing office. No individual shall be named as a respondent in the complaint.
- B. Review of pleadings
 - 1. Reviewing official - The complaint and any other documents shall be reviewed by the designated judicial officer. In the event the designated judicial officer is disqualified under Section 4 of this Chapter, or is unavailable to serve under his subsection, the chief judge shall appoint a judicial officer to serve in that place and stead.
 - 2. Review procedures - After notice to the complainant and an opportunity to respond, the designated judicial officer may dismiss in writing any complaint that is found to be frivolous, unduly repetitive of a previous complaint or that fails to state a claim upon which relief may be granted.
- C. Hearing procedures
 - 1. Hearing officer - If the designated judicial officer does not dismiss the complaint under preceding subsection, the designated judicial officer, acting as the hearing officer, shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists.
 - 2. Specific provisions - The designated judicial officer may provide for such discovery and investigation as is necessary. In general, the designated judicial officer shall determine the time, plane and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:
 - a. the hearing shall be commenced no later than 60 days after the filing of the complaint;

- b. all parties, including the individual who is the subject of the complaint that is alleged to have violated rights protected by this Consolidated Plan, must receive written notice of the hearing. The designated judicial officer will provide a confidential service list to the EDR Coordinator or Alternate EDR Coordinator for distribution;
- c. at the hearing, the complainant and the individual who is the subject of the complaint will have the right to representation, to present evidence, and to cross-examine adverse witnesses; the employing office will have the rights to present evidence and to cross-examine adverse witnesses;
- d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- e. in reaching a decision, the designated judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VII of this Consolidated Plan and by decisions of the judicial council of the circuit under Section 8 of this Chapter.
- f. remedies may be provided in accordance with Section 9 of this Chapter where the designated judicial officer finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Consolidated Plan has been violated;
- g. the final decision of the designated judicial officer must be issued in writing not later than 60 days after the conclusion of the hearing; and
- h. all parties, including the subject of the complaint that is alleged to have violated rights protected by this Consolidated Plan, must receive written notice of any action taken as a result of hearing. The designated judicial officer will provide a confidential service list and a written notice of any action taken to the EDR Coordinator or Alternate EDR Coordinator for distribution.

§8 Circuit Judicial Council Review Procedures

A party dissatisfied by a final decision of the designated judicial officer, may petition for review of that decision under procedures established by the judicial council of the circuit. Any review will be based on the record created by the

designated judicial officer and shall be affirmed if supported by substantial evidence.

A petition for review must be received by the designated judicial officer within 30 days of the date of the letter to the parties transmitting the order. The petition should be in the form of a letter, addressed to the designated judicial officer, beginning "I hereby petition the judicial council for review of the chief judge's order under the Consolidated Equal Employment Opportunity and Employee Dispute Resolution Plan of the United States Bankruptcy Court for the District of Colorado ..." There is no need to enclose a copy of the original complaint. Only one copy of the petition is required.

The letter should set forth a brief statement of the reasons why the petitioner believes that the designated judicial officer's determinations were in error. The letter must be signed.

Upon receipt of a petition for review of the order of the designated judicial officer within the time allowed and in proper form under these rules, the designated judicial officer will acknowledge receipt of the petition. The designated judicial officer will promptly send the petition to the circuit executive, who will distribute the petition to each member of the judicial council except for any member disqualified under Chapter X§4, copies of:

- (1) the complaint and any statement of facts;
- (2) any response filed;
- (3) any record of information received by the designated judicial officer in connection with the consideration of the complaint;
- (4) the designated judicial officer's order disposing of the complaint;
- (5) any memorandum in support of the order;
- (6) the petition for review;
- (7) any other documents that appear to be relevant and material to the petition; and
- (8) a ballot.

Upon receipt of a petition filed within the time allowed but not in proper form under these rules (including a document that is ambiguous about whether a petition for review is intended), the designated judicial officer will acknowledge receipt of the petition, call the petitioner's attention to the deficiencies, and give the petitioner the opportunity to correct the deficiencies within ten days. If the deficiencies are not corrected within the time allowed, the petition will be returned unfiled and the proceedings will be deemed to be concluded.

§9 Remedies

A. Where judicial officers acting pursuant to section 7 or 8 of this

Consolidated Plan find that a substantive right protected by this Consolidated Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively insuring compliance with the rights protected by this Consolidated Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.

B. Remedies which may be provided to successful complainants under this Consolidated Plan include, but are not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which previously removed;
4. prospective promotion to a position;
5. priority consideration for a future promotion or position;
6. back pay and associated benefits, including attorney fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. §5596, are satisfied;
7. records modification and/or expungement;
8. “equitable” relief, such as temporary stays of adverse actions;
9. granting of family and medical leave; and
10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours.

C. Remedies which are not legally available include:

1. payment of attorney fees (except as authorized under the Back Pay Act);
2. compensatory damages; and
3. punitive damages.

D. Finality

Decisions of the Judicial Council of the Tenth Circuit are final and may not

be appealed.

CHAPTER XI. RECORD OF FINAL DECISIONS

§1 Written Decisions

Final written decisions under this Consolidated Plan shall not name the complainant or individual respondents and shall be captioned as follows:

Complaint Under the Consolidated Equal
Employment Opportunity and Employee Dispute
Resolution Plan of the United States Bankruptcy Court
for the District of Colorado

v.

Case No. (Year-Number)

The United States Bankruptcy Court
for the District of Colorado.
As The Designated Employing Office

The Court will have the discretion to redact sensitive information contained in the final written decision that may inadvertently identify the parties. Such decisions will be available to the public free of charge by written request addressed to the EDR Coordinator.

§2 Employment Records

All papers, files, and reports, except those relating to mediation, will be filed with the EDR Coordinator or Alternate EDR Coordinator at the conclusion of any informal or formal proceedings in a complaint. No papers, files, or reports relating to a complaint will be filed in any employee's personnel folder, except as necessary to implement any settlement, order for relief or disciplinary action. Contents of an employee's personnel folder will be confidential and not subject to public disclosure pursuant to Chapter XI § 1.

CHAPTER XII. REPORTS

§1 Court Unit Reports

Each court unit will prepare a brief report for the EDR Coordinator describing its efforts to provide equal employment opportunities in –

- a) Recruitment. Each court unit will describe briefly efforts made to bring a fair cross-section of the pool available for the position into its applicant

pool, including listing all employment sources used (e.g., state employment offices, schools, organizations, etc.). Each unit will also explain the methods used to publicize vacancies.

- b) Hiring. Each court unit will identify where its recruitment efforts resulted in the hiring of non-traditional applicants from the pool of available employees and will, if known, explain those instances where non-traditional applicants did not accept employment with the court when it was offered.
- c) Promotions. Each court unit will briefly describe promotional opportunities which occurred and will provide an analysis of the distribution of promotions, including a description of those persons who were promoted to supervisory positions.
- d) Advancement. Each court unit will describe what efforts were made to improve the skills and abilities of employees through cross-training, job restructuring, assignments, details and outside training.

In addition, this evaluation should include information on factors inhibiting achievement of EEO objectives such as no vacancies, minimal numbers of qualified applicants in the relevant labor market, and on all persons in the unit who have received all relevant training. This report will also include a breakdown according to the race, sex, national origin, and handicap of the court's personnel involved on forms to be provided by the Administrative Office of the United States Courts. The report will cover personnel actions occurring in the year ending September 30 and will be submitted to the EDR Coordinator by November 1 of each year.

§2 Objectives

Each court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement, and will prepare a specific plan for the EDR Coordinator explaining how those objectives will be achieved.

§3 Annual Report

The Human Resources Division will prepare for the court's approval an annual report for the year ending September 30. The report will include tables as provided by the Administrative Office of the United States Courts. It will detail factors, if any, inhibiting achievement of equal employment opportunity objectives. Upon approval of the court, this report will be submitted to the Administrative Office of the United States Courts.

The annual report shall include:

1. The number of complaints initiated;
2. The types of complaints initiated according to race, color, religion, sex, (including sexual harassment) national origin, age or disability;
3. The number of complaints resolved informally;
4. The number of complaints resolved formally without a hearing; and
5. The number of complaints resolved formally with a hearing.

(The foregoing information will not identify the names of the parties involved.)

A copy of the report will remain in the court and will be made available to the public upon request.

CHAPTER XIII. NOTICE

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

**COMPLAINT OF DISCRIMINATION
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYEE DISPUTE RESOLUTION PLAN OF THE
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employee Dispute Resolution Plan ("Consolidated Plan"). Please complete this form legibly.

1. Full name of Person Filing Complaint:_____
2. Address:_____

3. Home Phone:_____ Work:_____
4. If you are a court employee, state the following:

Court Unit in which employed:_____

Job Title:_____

Under terms of the Consolidated Equal Employment Opportunity and Employee Dispute Resolution Plan of the United States Bankruptcy Court for the District of Colorado, all complaints must be against the "United States Bankruptcy Court for the District of Colorado as Employing Office," (*not an individual*):

5. Identify the Chapter(s) of the Consolidated Plan under which your complaint is being filed.
 - ☐ Chapter II-Equal Employment Opportunity and Anti-Discrimination Rights
 - ☐ Race
 - ☐ Color
 - ☐ Religion
 - ☐ Sex Discrimination
 - ☐ Sexual Harassment
 - ☐ National Origin
 - ☐ Age (at least 40 years old at the time of the alleged discrimination)
 - ☐ Disability

- ☐ Chapter IV - Personnel Practices
- ☐ Chapter V - Family and Medical Leave Rights
- ☐ Chapter VI - Worker adjustment and Retraining Notification Rights
- ☐ Chapter VII - Employment and Reemployment Rights of Members of the Uniformed Services
- ☐ Chapter VIII - Occupational Safety and Health Protections
- ☐ Chapter IX - Polygraph Tests

6. Date(s) of alleged violation _____

7. Date on which counseling was requested _____

Date on which counseling was completed _____

Date on which mediation was requested _____

Date on which mediation was completed _____

8. Name of person who served as Counselor on this matter _____

9. Name of person who served as Mediator on this matter _____

10. Please summarize the actions or occurrences giving rise to your complaint. Explain in what way you believe your rights under the Consolidated Plan were violated. Identify all persons who participated in this matter of who can provide relevant information concerning your complaint. (If there is insufficient space below, you may attach additional pages.)

[Please attach a copy of any documents that relate to your complaint, such as an application form, resume, letters of discipline or termination, etc.]

11. What corrective action do you seek from your complaint?

12. Do you have an attorney or any other person who represents you in this matter?

☐Yes ☐No

If yes, please provide the following information concerning that person:

Name_____

Address_____

Work Phone:_____ Fax:_____

I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

Signature

Date